

—LEGISLATIVE—
TESTIMONY

April 13, 2023

STEVE DELIE

**Opposition to
SB 169 and 185**

Michigan Senate Labor Committee

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The following is testimony submitted for presentation to the Michigan Senate Labor Committee by the Mackinac Center's Steve Delie on April 13, 2023. This testimony and others can be read online at mackinac.org/testimony.

Opposition to SB 169 and 185

My name is Steve Delie, and I am the Director of Labor Policy at the Mackinac Center. We are a 501(c)(3) nonprofit research and educational institute that advances the principles of free markets and limited government. Through our programs, we challenge government overreach and advance free-market policies that free people to realize their potential and dreams. I write today to oppose SB 169 and 185.

SB 169

If adopted, SB 169 would require that public employers regularly provide a public employee's private contact information to that employee's collective bargaining unit. This information includes not only information about how an employee can be contacted at work, but also their home address, personal telephone number, and personal e-mail address. This is far from innocuous.

Personal contact information can and has been misused in order to intimidate employees into joining a union. In a 2007 congressional hearing, a former union organizer for the United Steelworkers testified that he was instructed to threaten migrant workers with being reported to immigration officials if they refused to support the union. That same organizer described other aggressive union tactics, such as making multiple visits to employees' homes in an effort to frustrate them or cause them to fear for the safety of their families and property. A UAW organizer also testified that some employees were visited at their homes as many as five separate

times. Once the employee agreed to support the union, the visits stopped.¹ This pales in comparison to the experience of one health care worker who had a union organizer threaten to take her children and slash her tires.²

These examples help illustrate that unions have shown a willingness to take inappropriate and coercive actions to win certification elections and obtain exclusive representative status.

To the extent SB 169 is to be adopted, we would strongly recommend both of the following amendments be made. First, we recommend that the information provided be limited to only an employee's work contact information. This change would help mitigate some of the intimidation identified above, while still accomplishing the primary purpose of the act.

Second, we recommend that SB 169 be amended to provide public employees with a notice of their rights under the Supreme Court's 2018 *Janus v AFSCME* opinion. In that case, the Court recognized that all activity undertaken by a public-sector union is inherently political, and, as a result, an employee could not be forced to pay a union without having knowingly and voluntarily chosen to become a member. SB 169 should be amended to ensure public sector employees are aware of this decision and know that it is up to them whether to join a union. Adopting this amendment will allow employees to make a knowing and fully informed choice about whether to join a union.

SB 185

1 F. Vincent Vernuccio, "Protecting the Secret Ballot: The Dangers of Union Card Check" (Mackinac Center for Public Policy, Oct. 22, 2019), 4-6, <https://perma.cc/6TR9-L9BV>

2 "HCF Inc. d/b/a Shawnee Manor and District 1199 SEIU, The Health Care and Social Service Union, AFL-CIO, Petitioner (Case 8-RC-15261)," (The National Labor Relations Board, Aug. 27, 1996), <https://perma.cc/42RP-JF8X>. It should be noted that the NLRB found this behavior to be insufficient grounds to overturn the union's election as exclusive bargaining representative.

SB 185 represents an expansion of the number of employees who fall within the jurisdiction of Michigan's Public Employment Relations Act, PA 336 of 1947. Specifically, SB 185 would amend PERA to allow school administrative officials and graduate student research assistants to be classified as public employees. This in turn, would allow them to be unionized under the terms of PERA.

With respect to the school administrative officials, such a change undermines the collective bargaining process. Currently, as management-level employees, school administrators are often tasked with evaluating, disciplining, and even bargaining with employees in a bargaining unit. If they are also members of the same union, these administrators may find their interest compromised in these important aspects of public employment.

SB 185 also creates the opportunity for coercive pressure to be used against those school employees who choose to exercise their rights under *Janus*. A pro-union administrator may treat a non-union employee more harshly than a union employee in a similar circumstance. That non-union employee would then typically be forced to appeal to school administrative officials likely within the same bargaining unit as the administrator issuing the discipline. Such a system creates the possibility of discriminatory treatment designed to force employees to give up their rights under *Janus*.

As to graduate student research assistants, the potential danger of being classified as public employees is fairly obvious. Graduate student research assistants are, appropriately, engaged in academic research. Their primary role is an educational one, rather than an employment relationship. By classifying research assistants as public employees, SB 185 inherently creates an adversarial relationship between professors and their assistants. Should labor disputes arise, the disruption would not be limited to professors engaged in research. Graduate students would also have their education negatively affected.

In 2011, this opinion was largely shared by the University of Michigan and 19 of its faculty. On June 24, 2011, former Provost Philip Hanlon wrote a letter on behalf of University Staff opposing the unionization of graduate student researchers. This letter outlined not only the potential disruption to research that benefitted both Michigan and the nation as a whole, but also stressed “the potential negative impact on [professors] one-on-one relationships with students and the University’s competitive position among its peers.” The letter also acknowledged that unionization would “compromise the essential nature of the doctoral preparation.”³

Conclusion

Neither SB 169 nor SB 185 benefit employees. SB 169 creates the possibility of harassment campaigns, while SB 185 potentially injects management employees into a situation where they are forced to evaluate and discipline members of their union. SB 185 also jeopardizes important research interests as well as the education of graduate students. For these reasons, we urge you to vote no on both bills.



Steve Delie is the director of labor policy and Workers for Opportunity at the Mackinac Center for Public Policy.

3 A copy of this letter is attached.

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The Mackinac Center for Public Policy is dedicated to improving the understanding of economic principles and public policy among private citizens and public officials. A nonprofit and nonpartisan research and education institute, the Mackinac Center has grown to be one of the largest state-based think tanks in the country since its founding in 1987.

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